

**MINUTES**  
**WHITLEY COUNTY BOARD OF ZONING APPEALS**  
**REGULAR MEETING**  
**APRIL 23, 2019 7:30 P.M.**

**MEMBERS PRESENT**

Sarah Lopez  
Danny Wilkinson  
Doug Wright  
Tim Denihan  
Elizabeth Deckard  
Joe Wolf (alternate)

**ATTORNEY**

Dawn Boyd

**STAFF**

Nathan Bilger  
Jennifer Shinabery

**VISITORS**

There were 9 visitors who registered their attendance at the April 23, 2019 regular meeting of the Whitley County Board of Zoning Appeals. A signed guest list is kept on record.

**CALL TO ORDER/ ROLL CALL**

Mr. Wilkinson called the meeting to order at 7:30 p.m. and Ms. Shinabery read the roll call.

**CONSIDERATION AND ADOPTION OF THE MARCH 26, 2019 REGULAR MEETING MINUTES**

Mr. Wilkinson asked if there were any corrections or additions to the minutes as submitted. There being none, Mr. Wright made a motion, seconded by Mrs. Lopez to approve the minutes. The motion carried 4-0-1, with Mr. Denihan abstaining.

**OATH TO WITNESSES**

Attorney Boyd administered the oath to those present who wished to speak during the meeting. Mr. Wilkinson then briefly explained the procedure for conducting the meeting.

**OLD BUSINESS**

**19-W-SE-1/19-W-VAR-1** Stan & Randee Reiff, 4560 W. State Road 205, South Whitley, are requesting a special exception to allow for a traffic generating home occupation in an AG, Agricultural District and a variance from the Home Occupation Standards related to the size and parking requirements. The property is located on the north side of W. State Road 205, about ½ mile between S. 400 West and S. 500 West in Section 36 of Cleveland Township.

Ms. Deckard explained that she would be recusing herself and Mr. Wolf would serve as her alternate for this petition. Mr. Bilger briefly summarized the petition that was initially presented at the previous regular meeting. He referred to the aerial views of the property, highlighting the main discussion points from the last meeting such as parking. He briefly reviewed the suggested staff conditions, explaining that at the previous meeting these conditions were clarified and no changes were made.

Matt Shipman, attorney with Bloom Gates Shipman & Whitleather LLP, 119 S. Main Street, Columbia City, stated that he is representing the petitioners. He referred to the photographs

submitted by the petitioners, explaining that the property is very rural. He stated that the petitioners are very sensitive to how their neighbors will be affected and made a point to approach all of them to discuss what he is proposing to do and also received their signatures in support of the petition. He stated that the proposed venue is unique to this County and is therefore in demand and supports local economic development. He concluded by stating that the property is well-maintained and would be non-transferable.

Mr. Denihan asked for specifics on the parking. Mr. Shipman specified the location of the parking area and stated that it would be grass. He explained that the petitioners are willing to put down stone if that becomes necessary.

Mr. Wilkinson asked if there was anyone present who wanted to speak regarding the petition.

Jon Myers, President of the Whitley County Economic Development Corporation, 2100 E. Cider Mill Road, Columbia City, spoke in favor of the petition. He stated that this is a project that would improve the quality of life in the County and is something that the community can 'show off'. He stated that he had spoken with the South Whitley Town Council and received unanimous positive feedback.

Ronda Salge, 5465 N. 650 East, Churubusco, stated that she believes the owners will take care of the property because it is a business in a small community. She also stated that this is a great way to preserve and protect a historical structure. She stated that the zoning code does not address projects such as this that fall between being a home occupation and a commercial operation. She stated that she believes this proposal is good for the community and is in support.

Lisa Johnston, 6955 E. US 33, Churubusco, stated that she thinks the idea is fantastic.

Mr. Wilkinson asked if there was any opposition to the petition. There was none.

Mr. Wolf stated that he is familiar with a similar venue in Ohio and it is a very nice place.

Mr. Wilkinson stated that he likes the idea and is not against the petition, but is uncomfortable because it takes thirteen conditions and three variances to make it compliant with the code. He stated that parking is his biggest concern.

Mr. Denihan stated that he believes that grass parking is going to create some real issues and is going to be very muddy.

Mr. Wright made a motion to approve both the special exception and the variance petitions with the thirteen suggested staff conditions; Mrs. Lopez seconded. The motion passed with a 3-2 vote, with Mr. Wright, Mrs. Lopez, and Mr. Wolf voting in favor and Mr. Wilkinson and Mr. Denihan voting against.

### **NEW BUSINESS**

19-W-VAR-2 Donald & Kathryn Felger, 2453 E. Crampton Road, Columbia City, are requesting a development standards variance to allow for a detached garage within the required

front yard setback. The property is located on the north side of E. Crampton Road on Little Cedar Lake in Section 11 of Thorncreek Township and is zoned LR, Lake Residential.

Mr. Bilger explained that Mr. Wolf will be stepping off the Board at this time and Ms. Deckard will return. He reviewed the staff report and details of petition. He explained that the request is for a 25' variance from the required 35' setback. This would result in the garage to be located 10' from the right-of-way off of Crampton Road. He referred to the aerial views of the property, explaining the uniqueness of the situation as the property is not actually lakefront property and neighboring lakefront properties have 15' road side setbacks. He discussed the slope of the land creating the need for the variance request. He concluded by stating that the request appears to meet the criteria for the need for a variance, but would recommend discussing whether the variance could be reduced by 5' in order to be consistent with neighboring setbacks.

Donald & Kathryn Felger, 2453 E. Crampton Road, Columbia City, presented their petition. Mr. Felger stated that a 10' setback is ideal, but he could talk to his builder and adjust to 15' if that is what the Board desires.

Mr. Wilkinson asked if there was anyone present who wished to speak regarding the petition. There was no one.

Following brief discussion, Mr. Wright made a motion to approve the petition with an amended variance of 20' to allow for a 15' setback; Ms. Deckard seconded. The motion passed with a vote of 5-0.

**19-W-VAR-3** Miller's at OakPointe is requesting a variance from the sign regulations related to height and LED display. The property is located on the southwest corner of N. Wolf Road and W. US 30 and more commonly known as 411 N. Wolf Road, Columbia City, in Section 5 of Columbia Township. The property is zoned AG, Agricultural District.

Mr. Bilger reviewed the staff report and details of the petition, referring to aerial views of the property. He explained that the petitioners plan to replace the electronic portion of the sign with a slightly larger screen; the rest of the sign dimensions will remain the same. He explained that the sign was originally administratively approved in 2015 and the current petition would validate that approval as well as approve the larger electronic portion. He concluded by stating that staff recommends approving the variance.

Jake Revere, Administrator of Miller's at OakPointe, was present on behalf of the petition. He explained that the current sign is not functioning. He stated that the sign company will be using up-to-date software that will comply with all of the suggested staff conditions.

Mr. Wilkinson asked if there was anyone present who wished to speak regarding the petition.

Ronda Salge, 5465 N. 650 East, Churubusco, asked how much information would be displayed on the sign and expressed concern over driver distraction.

Mr. Revere responded to Mrs. Salge's concern, stating that the new sign would display limited characters on only one slide.

Mr. Denihan made a motion to approve the petition with a height limit of 10'9" and with the following suggested conditions:

1. The sign shall not appear to flash, undulate, pulse, or portray explosions, fireworks, flashes of light or blinking or chasing lights.
2. Electronic messages may not change more rapidly than once every one and one-half (1.5) seconds.
3. Electronic messages may not require more than ten (10) seconds to display in its entirety.

Mr. Wright seconded and the motion passed with a vote of 5-0.

**19-W-SE-2** Lisa & Christopher Johnston, 6955 E. US Highway 33, Churubusco, are requesting a special exception to allow for a traffic-generating home occupation/dog kennel. The property is located on the north side of E. US 33, about ½ mile between N. 650 East and N. 750 East in Section 3 of Smith Township and is zoned AG, Agricultural District.

Mr. Bilger reviewed the staff report and details of the petition, referring to aerial views of the property. He explained that the petitioners are proposing to build a 30'x50' accessory building that would include an interior space for dog breeding. As proposed, there would also be an outdoor area for the dogs. He reviewed and discussed the suggested staff conditions.

Lisa Johnston, 6955 E. US Highway 33, Churubusco, was present and provided further details on the request. She expressed her passion with dog breeding and explained that she does not desire to board or kennel outside dogs. She also stated that the area where the dogs would be kept would be hidden from public view as to not detract from the rural/agricultural setting. She submitted an updated site plan to the Board for review, which increased the size of the building up to 40'x65' and included additional dog runs.

Mr. Wilkinson asked if there was anyone present who wished to speak regarding the petition.

Ronda Salge, 5465 N. 650 East, Churubusco, asked whether the 20 dogs mentioned in the suggested staff conditions referred to only adult dogs. Mr. Bilger responded that the intention was to refer to adult dogs. She also suggested the petitioner look into the Indiana State Board of Animal Health.

Mrs. Johnston responded that she is familiar with BOAH and will be exceeding every expectation.

There being no further discussion, Ms. Deckard made a motion to approve the petition with the following conditions:

1. The Special Exception is granted for the applicant and is non-transferable.
2. The Special Exception is granted as presented and per the *amended* site plan.

3. There shall be no more than 20 dogs on the property as part of the Special Exception.
4. The general boarding of dogs is not permitted without revision of this Special Exception.

Mr. Wright seconded and the motion passed with a vote of 5-0.

#### **OTHER BUSINESS**

Mr. Bilger updated the Board on the status of legal action being taken against Eugene & Loretta Childers for zoning violations at 965 E. Gatesworth Drive.

Mr. Bilger reported the BZA training session is scheduled for May 22<sup>nd</sup> at 7:00 p.m.

#### **ADJOURNMENT**

Mr. Wilkinson declared the meeting adjourned at 8:38 p.m.